HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 2714 of 2007

Date: 21.8.2007

Between:

Mohd. Ahmedullah Quadri

....Petitioner

and

A.P. State Wakf Board, represented by its
Chief Executive Officer, Haj House,
Nampally, Hyderabad and others

....Respondents

HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 2714 of 2007

O R D E R:

The petitioner was appointed as a Mutawalli for a wakf institution by name Mosque Mahboobia (Mosque Mahboob Saheb), situated at Balsehti Khet, Darusshifa, Hyderabad, on 3.6.1997 by the A.P. State Wakf Board-the 1st respondent herein. Through proceedings dated 15.12.2006, the 1st respondent constituted a committee comprising of respondents 2 to 12 in the context of construction of a mosque, under Section 18 of the Wakf Act, 1995 (for short 'the Act'). The petitioner challenges the said proceedings.

According to him, Section 18 of the Act does not permit of such a course; the appointment of a committee is impermissible as long as the wakf is under the administration of a Mutawalli and that no reasons were furnished as to how it became necessary to constitute such a committee.

On behalf of the respondents 2 to 5 and 7 to 12, a counter affidavit is filed. It is stated that there were serious disputes between two sets of persons as regards the office of Mutawalli for the wakf and though the petitioner came to be recognized as a Mutawalli, he has not been evincing the required amount of interest for the development and upkeep of the wakf. The mosque is said to be in a dilapidated

condition and that donations have been raised from local 'Musallies' and the committee was constituted for undertaking effective construction.

Sri A.M. Qureshi, the learned counsel for the petitioner, submits that the appointment of the committee through the impugned proceedings would have the effect or erosion into the powers and functions of the petitioner.

The learned Standing Counsel for the A.P. State Wakf Board-1st respondent and Sri M.V.S. Suresh Kumar, the learned counsel appearing for the respondents 2 to 12, on the other hand, submits that the constitution of the committee was for a specific and definite purpose of construction of a mosque and it is permissible under Section 18 of the Act itself. They contend that the authority of the petitioner, in no way, affect on account of the constitution of a committee.

Basically, a wakf is to be administered and managed by a Mutawalli; whether appointed under the Wakfnama or by Wakf Board in accordance with the provisions of the Act. Whenever the wakf is not administered by a Mutawalli, the Wakf Board can appoint committees either for specific or general purposes in relation to the concerned wakf.

Section 18 is clear in its purport, which reads as under:

> **Committees of the Board**:- (1) The Board may, whenever it considers necessary, establish either generally or for a particular purpose or for any specified area or areas committees for the supervision of wakfs.
>
> (2) The constitution, functions and duties and the term of office of such committees shall be determined from time to time by the Board:
>
> Provided that it shall not be necessary for the members of such committees to be members of the Board.

In **A.P. WAKF BOARD V. MOHD. HIDAYATULLAH** ([1]), a Division Bench of this court took the view that a Managing Committee of a wakf as well as a Mutawalli cannot simultaneously function.

Section 16 of the Wakf Act, 1954, which is in **Pari materia** with Section 18 of the Wakf Act, 1995, was interpreted. To the same effect is the judgment of a Division Bench of this court reported in **MOHD. DILAWAR ALI V. A.P. MUSLIM WAKF BOARD** ([2]).

So far as the power of the Wakf Board to appoint committees for specific and definite purposes is concerned, it is almost left open. The purport of the judgments referred to above as well as Section 18 of the Act is that once a Mutawalli is appointed, the management of the wakf shall vest in him. This, however, does not take away the power of the Wakf Board under Section 18 of the Act to appoint committees for 'specific purposes' as long as they do not meddle with the administration of the wakf by the Mutawalli.

In the instant case, the Wakf Board did not, in any way, meddle with the functioning of the petitioner as Mutawalli nor the scope of powers is curtailed. Obviously for better administration or to undertake effective steps to make construction, the committee is constituted exclusively for this purpose.

Use of the words 'Managing Committee', in some places, in the impugned proceedings appears to be inadvertent and of no consequence. Therefore, this court is not inclined to set aside the impugned proceedings. This much, however, can be said that the appointment of the committee shall, in no way, be detrimental to the interests of the petitioner as the administrator and manager of the wakfs in question. Further, it shall be open to the petitioner to take part in the construction activity, and the committee as well as the petitioner shall act in tandem to bring about the mosque as proposed, however, subject to the guidelines and directions that may be issued by the Wakf Board from time to time.

The writ petition is, therefore, disposed of directing that the appointment of the committee through the impugned proceedings shall be without detriment to the functioning of the petitioner, and the committee as well as the petitioner shall act in tandem to bring about

the mosque in question. There shall be no order as to costs.

L.NARASIMHA REDDY, J

Date: 21.8.2007
cvm

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[1]. AIR 1974 A.P. 287

[2]. AIR 1967 A.P. 291